

Docket No. 58569-P001US-10007125

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application: Rodney L. Dockery et al.
Serial No.: 08/813,852
Filed: March 7, 1997
Art Unit: 3652
Examiner: F. Bartuska
For: SYSTEM AND METHOD FOR PROMOTING STORES
AND PRODUCTS

Assistant Commissioner
for Patents
Washington, D.C. 20231

I hereby certify that this correspondence is, on the date shown below, being deposited ^{by mail to} with the United States Patent Service with sufficient postage as first class mail, in an envelope addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231, the Patent and Trademark Office.	
Date deposited:	8-7-00
Lise Lynch (Typed or printed name of person mailing paper or fee)	
<i>Lise Lynch</i> (Signature of person mailing paper or fee)	

DECLARATION OF CALEB J. PIRTLE
PROVIDING EVIDENCE OF COMMERCIAL SUCCESS UNDER 37 C.F.R. §1.132

I, Caleb J. Pirtle, being of legal age and capacity, upon personal knowledge, declare as follows:

1. My name is Caleb J. Pirtle.
2. I am the vice president at Dockery House Publishing, Inc., ("Dockery House"), the successor-in-interest to Heritage Publishing, Inc., the assignee of United States Patent Application Serial No. 08/813,852 ("the '852 application"). I have held this position at Dockery House for the

Docket No. 58569-P001US-10007125

2

PATENT

last 14 years and have held similar positions in other companies for 10 years. As vice president at Dockery House, I have been involved in determining the market trends and demands for promotional vehicles currently offered to sales-related companies. I have also been closely involved in client contact, including analysis of client marketing goals and identification of promotional vehicles suitable for addressing those goals. In developing proposals for the promotional programs, I work closely with our customers to analyze their historic sales performance, their sales and marketing growth potential, and their advertising or marketing budget needs. I also directly contact customers to obtain feedback and results on promotional product features which they have considered particularly valuable, and to find out any new feature requirements they might have. Based on my relationship with the clients and the information I obtain from them, I also assist in developing the appropriate promotional vehicle for their particular purposes.

3. I am familiar with the Dockery House invention as set forth in the claims of the '852 application.

4. The Dockery House invention was introduced to the public in October of 1997 to provide a unique and improved method of promoting consumer items. Prior to that time, the standard industry promotional magazine may have contained general interest articles and possibly recipes, in which the recipes may have included the brand-name of the product being promoted. These prior promotional magazines also include cents-off coupons for some of the products being promoted.

5. In comparing the Dockery House promotional method with the existing promotional methods, it has been my experience that the commercial success can be objectively measured by the redemption rate of the various coupons found within the magazines. The national standard redemption rate for all types of coupons is within the range of 0.25 - 0.5%. The coupons considered

Docket No. 58569-P001US-10007125

3

PATENT

in this national average include not only those found in promotional magazines, but other coupons from direct mailing and newspapers, which typically are redeemed at a higher rate than magazine coupons. In contrast to the national coupon redemption rates, the coupons found in the promotional magazines created using the Dockery House promotional method have resulted in an average redemption rate within the range of 2 - 5%.

Furthermore, the Dockery House promotional method includes the promotion of private-label products which are sometimes referred to as "store-brand" products. The existing promotional magazines do not provide for private label promotion. The redemption rate for the private label coupons for products promoted in magazines using the Dockery House promotional method has typically varied from 5% all the way up to 18%.

6. The 400 - 5000% improvement in coupon redemption rate for the coupons found in magazines using the Dockery House promotional method over the existing promotional magazines could only be attributed to the unique qualities found in the Dockery House system and method. Both promotional publication methods use general interest articles and recipes. The existing promotional magazines include general interest articles as the "hook" to get the consumer to look at the magazine. By reading the articles, the consumer looks at the magazine. The consumer, therefore, may see the advertisements placed in the publication and possibly see the brand names in any recipes included therein. The existing method, therefore, relies on the article to get the consumer to look at the magazine, and by looking at the magazine, the advertisements may be seen.

In contrast, the Dockery House method uses the article to sell or promote the product. Before the article is even written, the Dockery House invention uniquely provides for collecting information about the product concerning its practical uses or advantages and then using that information to develop the general interest article. The invention further uniquely provides that the promotional product as well as the collected information is incorporated into the article. In the existing promotional methods, a consumer interested in reading an article about a favorite interest may skip

Docket No. 58569-P001US-10007125

4

PATENT

over the advertisements to read the article. However, the same consumer, interested in reading an article in a Dockery House promotional magazine, will be assured of not only reading about the product being promoted, but also learning about its practical or beneficial uses merely by reading the article, which is, most likely, the reason that the consumer picked up the magazine in the first place. The Dockery House promotional method also makes use of recipes within the articles to help implement the promotion. Therefore, the unique elements of the Dockery House invention substantially increase exposure and knowledge about the product being promoted. The effect of this unique process can be measured by the overwhelmingly superior coupon redemption rates seen by Dockery House method advertisers.

7. In an example of the success of the Dockery House promotional method, a retailer, who had purchased a magazine promotion from Dockery House, realized a net profit on the advertising of \$261,706 over the course of a year. The cost of production to the retailer was approximately \$830,000. Under the advertising agreement between this retailer and Dockery House, once the production costs had been recovered, Dockery House and the retailer would equally split the continuing profits according to a negotiated percentage. Therefore, after the retailer recovered the \$830,000 production costs, it was able to clear a profit of \$261,706 after paying Dockery House its negotiated share of the profits.

The redeemed coupons were used in order to attribute the sales revenues to the Dockery House promotional magazine. In my opinion, the comparative coupon redemption rates can be used to compare the success achieved for this retailer using the Dockery House promotional method against what may have been achieved using the national average redemption rate for the existing promotional methods. Assuming the highest national average redemption rate of 0.5% and the lowest of the Dockery House method's redemption rate of 2%, this vendor may have experienced only one-quarter of the total revenues it recovered using the Dockery House method. This 400% swing would probably have resulted in the retailer failing to recover even the costs of production.

Docket No. 58569-P001US-10007125

5

PATENT

8. In my opinion, the Dockery House promotional method represents a unique advance in product promotion. No existing method of promotional advertising includes all of the elements which make the Dockery House method superior. There are no other promotional magazines which collect information about a product's uses and advantages and then writes a general interest article which not only incorporates the product being promoted, but also includes the collected information about the product advantages. By using these unparalleled techniques, the Dockery House method is able to create an article which does not appear to the consumer as an advertisement. The Dockery House method maintains a credibility of the article in the eyes of the consumer, thus, implanting a favorable state-of-mind with the consumer in relation to the products being promoted. The uniqueness and effectiveness of the Dockery House method is clearly evident in its high coupon redemption rates and profitability to the advertising vendors.

9. All statements made herein are of my own knowledge and are believed by me to be true and correct; and further these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. §1001, and that such willful false statements may jeopardize the validity of the application for patent commented on herein.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on August 7, 2000

Caleb J. Pirtle
CALEB J. PIRTLE

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For those who think price is everything.

Hertz introduces new low weekly rates across the country. Low rates even price conscious shoppers can't afford to pass up.

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A Week

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Maui†, Honolulu†, Denver, Houston, Dallas/Ft. Worth, Ft. Lauderdale, West Palm Beach, Sarasota, Tampa/St. Petersburg and Daytona Beach.

\$89
A Week

subcompact limited availability.
Phoenix, Tucson, Atlanta, Nashville, Milwaukee, Salt Lake City, New Orleans, Charlotte and Savannah.

\$99
A Week

subcompact limited availability.
Las Vegas, San Diego, San Francisco, Los Angeles, Boston, Albuquerque, Washington, D.C., Chicago, Portland, San Jose, Cincinnati and Baltimore.

*Rate is guaranteed on reservation. Any change in reservation may result in change of rate.

†Rate is for standard shift subcompact. These limited availability rates are for participating airport locations only, are subject to change without notice and include a limited number of miles per rental week with a charge for excess miles, except Florida and Hawaii weekly rentals. Rates higher for drivers under 25. Holiday/seasonal surcharges and limited blackout periods may apply. Minimum weekly rental period 5 days including a Saturday night, except in Hawaii. 7-day advance reservation required except in Hawaii and Florida, where a 24-hour advance reservation is required. Standard rental qualifications apply. Taxes, optional refueling service, CDW, PAI, PEC and LIS (where available) charges extra. Cars must be returned to renting location except Florida rentals rented and returned in Florida. If rental conditions are not met, higher rates may apply. Check Hertz for details, 1-800-654-3131.

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